

HAMILTON CONSERVATION COMMISSION

MINUTES OF MEETING

October 13, 2021

Zoom Webinar ID 84472030755

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Members Present: Virginia Cookson, Chris Currier, Lauren Lynch (Chairman), and George Tarr.
Coordinator: Brian Colleran
Others present: As noted in the minutes.

This meeting was called to order at 7:00 pm.

Roll call: George Tarr – present, Virginia Cookson – present, Chris Currier - present, and Lauren Lynch – present.

Announcements

Minutes

To be discussed at the next meeting.

Public Hearings

Request for Determination. 140 Lake Dr. Beshoy Henin. After the fact submission for the upgrading of a driveway.

Beshoy Henin was present to explain that water from the road drained to his driveway. Mr. Henin put down pac on his driveway adding pea-stone on top. Mr. Henin was not aware of the Conservation Commission jurisdiction or filing process. Brain Colleran said the application was in the drop box. Work had been completed and Mr. Colleran had no concern or issues regarding the work. An onsite conversation regarding the surrounding wetlands had been conducted. The previous owner had been driving over dirt on a steep slope.

Motion made by George Tarr to issue a retro-active negative determination.

Seconded by Virginia Cookson.

Roll Call Vote: Chris Currier - aye, Virginia Cookson - aye, George Tarr - aye, and Lauren Lynch – aye. Unanimous in favor.

Notice of Intent (NOI) continued. 3 Gail Ave. Gage Woodard. To raze and rebuild a single family home and septic.

Evin Guvendiren (DeRosa Environmental) was present. A site visit had been held with Brian Colleran, the engineer, designer, and Ms. Guvendiren. Two wetlands were present and if the septic had been shifted to the left, it would have been in the second jurisdiction. The engineer said the least amount of earth would be moved if the system was placed as proposed. DEP did not offer comments when it issued the file number, 172 0628

Motion made by Virginia Cookson to close the hearing at 3 Gail Ave. DEP 172 0628

Seconded by George Tarr.

Roll Call Vote: Chris Currier - aye, George Tarr - aye, Virginia Cookson – aye, and Lauren Lynch – aye. Unanimous in favor.

Motion made by Virginia Cookson to issue an Order of Conditions for the NOI for 3 Gail Ave to raze and rebuild a single family home with septic with no special conditions.

George Tarr seconded.

Roll Call Vote: Chris Currier - aye, George Tarr -aye, Virginia Cookson - aye, and Lauren Lynch – aye. Unanimous in favor.

Notice of Intent. 139 Cutler and 145 Cutler Rd. Flaminio Lanzillo. Both filings would remove an existing building and construct a new dwelling.

John Paulson (Atlantic Engineering) was present to share his screen. Both sites were on one plan. There was no DEP file number issued to date. The projects were filed separately but were on the same plan.

139 Cutler Road has been delineated on 8/2020 under a former number when 135 Cutler Road was being rebuilt. The septic had been approved. The deck on the rear of the house was 12' from the rear lot line and 80' from the wetlands at its closest point. A silt barrier was proposed across the back line. Brian Colleran had not visited the site to date. The applicant noted that the house and septic were sited as close to the street as possible and moving it further away from the wetland was not an option. Grading would not be done passed the silt area or 70' from the resource. Members discussed the topography of the backyard and scrub vegetation in the area.

145 Cutler Road had a smaller deck than 139 Cutler Road. The septic was approved. The proposed house would not impact more of the buffer zone than the current structure. No grading would occur in the back. The septic was to the side. If the deck was moved for either house, the applicant would return to the Commission.

John Paulson requested a continuance to the next meeting 10/27/21 to allow members to see what was in the flat area toward the wetland.

Motion made by Virginia Cookson to accept request to continue the meeting for the NOI for 139 and 145 Cutler Road to our next meeting when they had DEP file numbers.

Seconded by Chris Currier.

Roll Call Vote: Chris Currier – aye, George Tarr – aye, Virginia Cookson – aye, and Lauren Lynch – aye. Unanimous in favor.

Notice of Intent. Essex County Habitat for Humanity. 434 and 436 Asbury St. To build a community of several units on a lot, which currently has a single family home.

Will Schkuta (Morin Cameron Group - Essex County Habit for Humanity) was present. The 40B Comprehensive Permit had recently been approved by the Zoning Board of Appeals (ZBA). Roadwork was outside the Commission's jurisdiction. Two stormwater areas were shown. The buffer zone was shown with the 100' dissecting two home sites. A ZBA waiver had been approved to allow for a 25' no disturb zone. All structures are setback 78'+ from the resource

area. Drainage work would occur in the buffer zone. The septic was outside the 100' buffer zone. Alternates would destroy the nearby woodlands. Most of the gradient change was for the stormwater basin. A waiver had been requested that no mitigation would be necessary as the area would be loamed and seeded. A formal alternative analysis was substituted with a conservation sketch. A Commissioner added that a waiver is not required due to the project being a 40B project. Brian Colleran had met with the applicant on site. The applicant asked for a waiver to note the existing tree line rather than individual trees. A Wildlife Habitat study was also waived by the ZBA. The local design standards were considered during the design process.

The area would be graded down to the no disturb zone and there would be 10' between the wetlands and the drainage area. The area would be disturbed during construction but would be allowed to go natural in the future. There would be individual tanks with two community leaching fields. The bottom of slope would have a silt fence and silt sock with other areas having just a silt fence. NEPDES permit would be required. Robert Puff had conducted the stormwater review under the ZBA process. 28% to 30% of the property's buffer zone would be disturbed.

Brian Colleran explained that the ZBA had the authority to waive the Town's By-laws and had, after consideration, given his blessing to have the By-law waived as affordable housing (40B) would trump all local By-laws. The proposal met the guidelines of the Wetlands Protection Act. Will Schkuta said the Fire Department wanted the roadway increased, which caused the detention basin to increase. The proposal did not have a DEP file number to date. Mr. Schkuta requested a continuance until October 27, 2021.

Motion made by Virginia Cookson to continue the NOI for 434/4356 Asbury St of several 40B units until October 7, 2021.

Seconded by George Tarr.

Roll Call Vote: Chris Currier – aye, George Tarr – aye, Virginia Cookson – aye, and Lauren Lynch – aye. Unanimous in favor.

Continued Abbreviated Notice of Resource Area Delineation DEP File# 172-0623 (continued & revised). 133 Essex Street. Chebacco Hill Capital Partners, LLC. Confirmation of resource area boundaries at 133 Essex Street.

The ANRAD had been revised and submitted with the 8/18/21 plan. The plan included all potential vernal pools in the larger wetland areas as they were more than likely suitable for vernal pool species. No changes had been made since the August plan.

Mike DeRosa (DeRosa Environmental) explained the vernal pools on the site, stating that he was happy with the conservative wetland delineation and recommended approval of the ANRAD. Mr. DeRosa said the isolated land subject to flooding (ILSF) to the right of the development, included a buffer zone but did not have a vernal pool. Mary Rimmer and Mr. DeRosa debated if the ILSF might have been overlooked as a vernal pool due to the late egg laying season but Mr. DeRosa noted that all the other vernal pools had eggs in them during the same time while the ILSF was dry after three inspections.

Mr. DeRosa noted that the crossing area had an inland bank and intermittent stream but the area had a steep slope with no vegetation. Ms. Rimmer questioned the flagging of the southern pool. Mr. DeRosa said there were remnants of old trenches that had been dug for irrigation for the farm, which were not natural but deep enough to hold water. Mr. DeRosa said water flows through the wood road area and species could migrate back and forth in the important corridor but he did not consider it a vernal pool. Ms. Rimmer hoped to see volume calculations as well as the watershed analysis. Mr. DeRosa said he would do a volume calculation to allow for the approval of the ANRAD but even if the area was ILSF, there would be no buffer zone.

Jill Mann said the ANRAD was used for the NOI plan but wondered about the length of time it had taken to approve the resource areas. Lauren Lynch wanted to approve the ANRAD before considering the NOI. The applicant, opponents, and Board members discussed if the ANRAD needed to be approved before the NOI was considered. It was noted by Ms. Mann that the peer reviewer was satisfied with the jurisdictional area so it would make sense to withdraw the ANRAD as the lines were the same. Jill Mann opined that permits would be appealed and the location of the wetlands, which were on the NOI, were what mattered.

Deborah Eliason asked the Commission to make a decision on the ANRAD and objected to the speculation that permits would be appealed. Mary Rimmer said all the information that had been presented during the ANRAD process would not be applicable to the NOI process. Jill Mann responded that the information could be referred to in an effort to include it to the record. Ms. Mann said it was not in the applicant's best interest legally, to have two decisions pending at the same time as both were appealable. Ms. Mann said the applicant had originally intended on filing a Request for Determination, so an ANRAD was appropriate. Ms. Eliason and Ms. Mann debated whether the applicant had the legal right to withdraw the ANRAD application.

Members discussed if they were comfortable making a decision on the ANRAD. Jill Mann said making a decision would be against what the applicants had requested and strongly suggested they continue the public hearing to allow time for the Commission to get legal advice if the applicant had the power to withdraw the ANRAD application. Ms. Mann requested a continuance to the next hearing. Brian Colleran said it would be appropriate to request a continuance before the meeting, but found it odd to request a continuance during a discussion on whether to hold a vote.

Motion made by Chris Currier to grant the applicants' request to continue the discussion and vote on the ANRAD.

Seconded by George Tarr.

Roll Call Vote: Virginia Cookson - aye, George Tarr - aye, Chris Currier - aye, and Lauren Lynch - aye. Unanimous in favor.

Notice of Intent. 133 Essex St - Chebacco Hill Capital Partners, LLC. To combine the road usage, directional drilling, and water main extension work previously filed as separate Request for Determinations in a single filing.

Lauren Lynch read the legal ad to open the public hearing. Green cards had been delivered. Greg Hochmuth was present to show the four sheet plan on his screen. Areas that were focused upon were the water main extension, the temporary access area, and the horizontal directional

drilling site. Construction vehicles would require access across the intermittent stream to construct the septic system on the other side of the resource area. The resource areas shown on the NOI plan were the same as those shown on the ANRAD plan.

Greg Hochmuth explained that the proposed septic area was the only area available that had the least impact. Mr. Hochmuth said the applicant had explored options with abutters but none were available as each would impact the bordering vegetated wetland and one abutter denied access to their land. The applicant was seeking a waiver from creating an alternative analysis. Aerial photos showed the bordering vegetated wetland of the neighboring properties. The wood road was chosen as it crossed an intermittent stream.

The temporary crossing of the intermittent stream would incorporate steel plates. The bank would not be altered as the proposal showed 10' x 8' steel plates that sat upon timbers, which allowed for the crossing to be higher above the bank. A detail of the steel plates and crossing were shown. The timbers would sit upon a foot of stone, which would allow the steel plates to be 6" (side one) and 10" (side two) over the bank. The stone would be on filter fabric for an easier clean up. Wood rails would be on either side. A solid wood ramp would be constructed to access the bridge. The entire length of the wood road would feature plastic with plates, allowing for up to 120 tons. The bridge would experience 53,000 tons with a full load. There would be 250 trips to install the septic system and directional drilling due to the use of smaller equipment.

Erosion control was proposed for the entire length of the work in the buffer zone, along the wood road. There would be minor trimming with beech trees being tied up during construction. The erosion control would protect the vernal pools (one certified and one potential) on both sides of the wood road. A turtle barrier would be installed to keep wildlife out during construction. The erosion control would be a silt fence with a silk sock. Monitoring of the erosion control would occur daily with a report (including photos) issued to the Commission each day. Even if the 37' of bank collapsed, which was theoretically impossible, the evaluation threshold for wildlife would not be tripped. The erosion control would remain until it could be determined if there was a need to seed the area. The timeframe for the completion of the septic system and use of the temporary crossing would be one month. Access to the crossing would be outside the buffer zone. It was suggested that if there was a need to monitor wildlife along the crossing, it could be part of the Order of Conditions.

Tom Heneghen. (Ransom Consulting – Friends of Chebacco Woods) was present. Mr. Heneghen was concerned that the silty loam, which was susceptible to erosion, would not support construction traffic and that the poly plates would shift. Mr. Heneghen was concerned that there would not be enough space under the bridge for wildlife. Greg Hochmuth responded that there was a foot of clearance under the bridge, which was adequate for erosion control and wildlife to go under. The wood road had a base of loamy sand and was the only trail that did not have ruts due to the firm soil. According to Mr. Hockmuth, the banks were unnatural and were probably created by a bulldozer in the past.

Mary Rimmer requested that an alternative analysis (including soil testing) be provided as to why the septic was located in the proposed area. Ms. Rimmer had submitted a letter dated, September 28, 2021 in response to comments about alternatives and testing done by H.L.

Graham and Meridien Engineering. Ms. Rimmer noted the amount of rock on the site and that maintenance would require the temporary bridge to be used in the future. Greg Hochmuth said a lawn mower was the only maintenance needed in the future. Ms. Rimmer was concerned with the directional drilling impact to the stream, bank, bordering vegetated wetland, and vernal pool habitat.

Adam Towne was present to describe the directional drilling process. DEP had opined that there was no impact to soils or vegetation. Orders of Conditions from West Newbury and Ipswich that allowed direction drilling were discussed. Jackpits would be outside the buffer zone. The 4” sleeves would not go through ledge. A person would walk along the line between the entrance and exit pits. The drill rig, which would be kept outside the buffer zone, was about 6’ x 18’ with a 600’ reel of pipe. Tom Heneghen said all material would be delivered to the site and stock piled outside the 100’ buffer zone.

Greg Hochmuth requested a continuance.

Motion made by Virginia Cookson to continue this meeting until October 27 2021 for the 133 Essex St. NOI for three items: directive drilling, access to the site for the septic, and water main access to lot.

Seconded Chris Currier.

Roll Call Vote: George Tarr – aye, Chris Currier – aye, Virginia Cookson – aye, and Lauren Lynch – aye. Unanimous in favor.

Discussions

Orders of Conditions Extension – 172-0593 – Hamilton Wenham Regional High School

Brian Colleran had no concerns.

Motion made by Chris Currier to extend the Order of Conditions.

Seconded by Virginia Cookson.

Roll Call Vote: George Tarr – aye, Virginia Cookson – aye, Chris Currier – aye, and Lauren Lynch – aye. Unanimous in favor.

453 Essex St. / 27 Appaloosa Wetland Filling

Brian Colleran said photos would become evidence that wetland filling had been done. Mr. Colleran was drafting an enforcement order, which would be ready when the Commission was ready to send it. The attorney for the homeowner had asked for a continuance. Lauren Lynch said reviewing the aerial imagery was useful.

Patton Homestead Management Agreement with the Selectboard

The document and plan had been revised several times. The most recent edition was in the drop box. The Selectboard would review the plans and document at their next meeting.

Conservation Administration Conflict with November 10, 2021 meeting.

The November schedule would be revised due to conflicts and the Thanksgiving holiday.

Administrative Approval Example from Natick’s Conservation Commission.

Brian Colleran said the model by-law was in the drop box. Mr. Colleran said conditions were not issued but a yes or no answer to tree removal requests were given.

Other business

The next Conservation Commission meeting was scheduled for October 27, 2021 at 7:00 pm.

Adjournment

Motion made by Chris Currier to adjourn at 10:11 pm.

Seconded by George Tarr.

Roll Call Vote: Chris Currier - aye, George Tarr - aye, Virginia Cookson - aye, and, Lauren Lynch – aye. Unanimous in favor.

List of documents reviewed

Request for Determination Application and photos for 140 Lake Drive.

Plan of Lane 3 Gail Ave.

Plan of Lane 139 and 145 Cutler Road.

Notice of Intent applications for 139 Cutler Road

Notice of Intent application for 145 Cutler Road.

Plan of Lane 434/436 Asbury St.

Revised ANRAD Site plan for 133 Essex St., dated. 8/18/21

DeRosa Engineering report.

Engineering plans for 133 Essex St.

Tom Heneghan letter dated, September 28, 2021.

Mary Rimmer letter dated, September 28, 2021.

Directional drilling Orders of Conditions from West Newbury and Ipswich.

Model Restoration Order of Conditions were in the drop box.

Patton Homestead Management Agreement.

Natick Conservation Commission model by-law for administrative approval of tree removal.

Respectfully submitted as approved at the November 8, 2021 meeting.

Brian Colleran



